

REMARKS/ARGUMENTS

The election/restriction requirement dated December 31, 2008 has been considered. In response thereto, Applicants make the elections set forth below. Applicants are also cancelling a large group of the non-elected claims without prejudice, while reserving the right to pursue patent protection on those claims in a future divisional application. Reconsideration and allowance of the present application in view of the elections and amendments is respectfully requested.

The Examiner required restriction to an invention I and invention II as follows: "I. Claims 1-37 [sic: claims 1-7, 9-27, and 30-37], drawn to a method for characterizing respiration of a patient, classified in class 600, subclass 529"; and "II. Claims 38-86 [sic: claims 38-48, 50-72, 75-81, and 83-86], drawn to a system for characterizing respiration of a patient, classified in class 600, subclass 529." Applicants in response elect invention II without traverse. Claims that encompass the elected invention are claims 38-48, 50-72, 75-81, and 83-86. Non-elected claims 1-7, 9-27, and 30-37 are being canceled without prejudice.

The Examiner also required Applicants to elect one of the following distinct species: "A1. A method or system wherein acquiring the respiration waveform comprises sensing transthoracic impedance"; and "A2. A method or system wherein acquiring the respiration waveform comprises sensing airflow." Applicants in response elect species A1 without traverse. Of the claims remaining from the election of invention II, the claims that encompass this election are claims 38-44, 46-48, 50-72, 75-81, and 83-86, wherein at least claims 38, 39, 41-43, 46-48, 50-72, 75-81, and 83-86 are generic.

The Examiner also required Applicants to elect one of the following distinct species: "B1. A system wherein a component of at least one of the respiration waveform sensor, the respiration processor, and the waveform generator is mechanically coupled to a cardiac rhythm management device"; and "B2. A system wherein a component of at least one of the respiration waveform sensor, the respiration processor, and the waveform generator is mechanically coupled to a positive airway pressure device". Applicants in response elect species B1 without traverse. Of the claims remaining from the election of invention II and

species A1, the claims that encompass this election are claims 38-42, 44, 46-48, 50-72, 75-81, and 83-86, wherein at least claims 38, 39, 41, 46-48, 50-72, 75-81, and 83-86 are generic.

The Examiner also required Applicants to elect one of the following distinct species: “C1. A system wherein the respiration waveform sensor comprises a transthoracic impedance sensor”; and “C2. A system wherein the respiration waveform sensor comprises an airflow sensor”. Applicants in response elect species C1 without traverse. Of the claims remaining from the election of invention II, species A1, and species B1, the claims that encompass this election are claims 38-42, 44, 46-48, 50-72, 75-81, and 83-86, wherein at least claims 38, 39, 41, 42, 46-48, 50-72, 75-81, and 83-86 are generic.

CONCLUSION

In view of the above, Applicants respectfully request reconsideration and allowance of the present application. If the Examiner would find it helpful to discuss any issue by telephone, the undersigned attorney of record invites the Examiner to contact the attorney of record.

Respectfully submitted,

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